



Paper No. 16

**THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224**

COPY MAILED

APR 21 2005

**OFFICE OF PETITIONS
ON PETITION**

In re Application of
Matthew Todd Hupp
Application No. 09/480,974
Filed: January 11, 2000
Attorney Docket No. 7905

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 29, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on February 28, 2002, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 29, 2002. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 29, 2002.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Pursuant to petitioner's authorization, Deposit Account No. 16-2480 was charged a total of \$2,290.00 -- \$1,500.00 for the petition to revive an unintentionally abandoned application and \$790.00 for the RCE fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This file is being forwarded to Technology Center 3727 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.



Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy